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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,073	05/07/2001	Steven Todd	2455-4621	9787

7590 06/24/2005  
MORGAN & FINNEGAN, L.L.P.  
345 Park Avenue  
New York, NY 10154-0053

EXAMINER
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RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/850,073

Applicant(s)

TODD, STEVEN

Examiner

Rob Rhode

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-34 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 – 13, drawn to method of apprising a sales person of consumer interactions, classified in class 709, subclass 203.
- II. Claims 14 - 26, drawn to a device for providing a salesperson with notification of consumer interactions, classified in class 709, subclass 204.
- II. Claims 27 - 34, drawn to a device for providing a salesperson with notification of consumer interactions with report generator, classified in 709 class, subclass 204.

Inventions Group I and Groups II / III are related as process and apparatus's for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e). In this case, Groups II and III and do not require the specific functionality of Group I. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

*Species*

*In the event the applicant elects Group I above, the applicant is further obligated to elect one among the following species as follows:*

This application contains claims directed to the following patentably distinct species of the claimed invention:

1a - Species of claims 2, 7, 9 – 13, the method further comprising defining one target item.

1b - Species of claims 2 and 8– 13, the method further comprising defining one target item.

2a - Species of claims 3, 7 and 9– 13, the method further comprising authorizing the salesperson.

2b - Species of claims 3, and 8– 13, the method further comprising authorizing the salesperson.

3a - Species of claims 4, 5, 7 and 9– 13, the method further comprising authorizing the customer.

3b - Species of claims 4, 5 and 8– 13, the method further comprising authorizing the customer.

4a - Species of claims 5 -6 and 8– 13, the method further comprising authorizing storing a record.

4b – Species of claims 5 -7 and 9 – 13, the method further comprising authorizing storing a record.

***In the event the applicant elects Group II above, the applicant is further obligated to elect one among the following species as follows:***

This application contains claims directed to the following patentably distinct species of the claimed invention:

1a - Species of claims 15, 20 and 22 - 26, the device wherein the processing unit is configured to define one target item.

1b - Species of claims 15 and 21 - 26, the device wherein the processing unit is configured to define one target item.

2a - Species of claims 16, 20 and 22 - 26, the device wherein the processing unit is configured to authorize the salesperson.

2b - Species of claims 16 and 21 - 26, the device wherein the processing unit is configured to authorize the salesperson.

3a - Species of claims 17, 20 and 22 - 26, the device wherein the processing unit is configured to authorize the salesperson.

3b - Species of claims 17 and 21 - 26, the device wherein the processing unit is configured to authorize the salesperson.

4a - Species of claims 18 - 20 and 22 - 26, the device wherein the processing unit is configured to store a record.

4b - Species of claims 18, 19 and 21 - 26, the device wherein the processing unit is configured to store a record.

***In the event the applicant elects Group III above, the applicant is further obligated to elect one among the following species as follows:***

This application contains claims directed to the following patentably distinct species of the claimed invention:

1a - Species of claims 28, 30 and 32 – 34, the device further comprising an first authorization unit requesting sales person authorization.

1b - Species of claims 28 and 31 - 34 the device further comprising an first authorization unit requesting sales person authorization.

2a - Species of claims 29, 30 and 32 – 34, the device further comprising an first authorization unit requesting customer infoamtion.

2b - Species of claims 29 and 31 - 34 the device further comprising an first authorization unit requesting customer infoamtion.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 1 is generic for Group I and Claim 14 is generic for Group II and Claim 27 is generic for Group III.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703) 746-7418** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

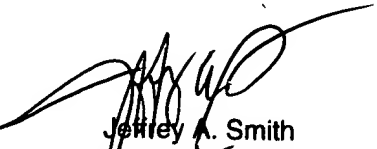
Status information for unpublished applications is available through Private PAIR only.



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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RER



Jeffrey A. Smith  
Primary Examiner